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ATTORNEY DOCKET NO. 01-P-002 (STMI01-00813)  
U.S. SERIAL NO. 09/871,463  
PATENT

REMARKS

Claims 1–20 are pending in the present application.

Claims 1–7 were withdrawn from consideration.

Claims 1, 8 and 16 were amended herein.

Reconsideration of the claims is respectfully requested.

35 U.S.C. § 102 (Anticipation)

Claims 8 and 10–14 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,060,787 to *Zhao et al* in view of U.S. Patent No. 6,436,814 to *Horak et al*. Claims 8–12, 14 and 16–18 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,054,383 to *Suzuki et al*. These rejections are respectfully traversed.

A claim is anticipated only if each and every element is found, either expressly or inherently described, in a single prior art reference. The identical invention must be shown in as complete detail as is contained in the claim. MPEP § 2131 at p. 2100-73 (8<sup>th</sup> ed. rev. 2 May 2004).

Amended independent claims 8 and 16 each recite that the conformal tungsten layer fills the openings within the dielectric layer. Such a feature is not found in the cited references.

Therefore, the rejection of claims 8 and 10–14 under 35 U.S.C. § 102 has been overcome.

35 U.S.C. § 103 (Obviousness)

Claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Zhao et al* in view of *Horak et al*. Claim 15 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Zhao*

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*et al* in view of U.S. Patent No. 6,346,741 to *Van Buskirk et al.* Claims 13, 15 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Suzuki et al* in view of *Van Buskirk et al.* These rejections are respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142, p. 2100-128 (8th ed. rev. 2 May 2004). Absent such a *prima facie* case, the applicant is under no obligation to produce evidence of nonobviousness. *Id.*

To establish a *prima facie* case of obviousness, three basic criteria must be met: First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *Id.*

As noted above, independent claims 8 and 16 each recite a feature that is not shown in the cited portions of either *Zhao et al* or *Suzuki et al*. Such a feature is also not found in the cited portions of *Horak et al* or *Van Buskirk et al*.

Therefore, the rejection of claims 8, 13, 15 and 20 under 35 U.S.C. § 103 has been overcome.

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If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at [dvenglarik@davismunck.com](mailto:dvenglarik@davismunck.com).

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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